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cmitchell@foley.com EMAILCLIENT/MATTER NUMBER
999100-0130Mr. Christopher Hughey, Esq.
Acting General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: MUR 6462

Dear Mr. Hughey:

The undersigned represents the Respondents in the above-referenced Matter Under Review, MUR 6462: Donald J. Trump, ShouldTrumpRun.com, Michael Cohen, The Trump Organization LLC, Stewart Rahr ("Respondents").

The complaint alleges violations of the Federal Election Campaign Act of 1971, as amended ("the Act") by virtue of the alleged use of an aircraft utilized by Respondents Michael Cohen and Stewart Rahr for travel to Iowa in March 2011 for private meetings, as well as allegations involving the ShouldTrumpRun.com website. The website was paid for personally by Respondent Michael Cohen and constitutes no expenditure in connection with a federal candidate. See 2 U.S.C. §431(2) and 11 C.F.R. §100.3. The complaint further contends that the use of the aircraft and the online poll on the website constituted illegal contributions to a federal campaign; however, no federal candidacy existed nor does it now exist.

Mr. Donald J. Trump has never been a federal candidate and has further publicly announced that he is not now and will not be a candidate for federal office in 2012. See http://www.washingtonpost.com/blogs/the-fix/post/donald-trump-wont-run-for-president-in-2012/2011/05/16/AF14GI4G_blog.html.

Accordingly, the Federal Election Commission ("the Commission") lacks jurisdiction over the Respondents and is precluded from taking any further action with respect to the allegations in the complaint. The provisions of the Act do not extend to persons traveling for purposes not in connection with a federal candidate or election. Nor does a website paid for personally by an individual asking his fellow citizens if a person should run for office trigger any reporting or compliance obligations on the individual paying for the website.

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Mr. Christopher Hughey, Esq.

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Finally, attached please find a chart depicting the ownership of the aircraft referenced in the complaint. As evidenced by the attached, the aircraft is owned by entities whose sole 100% owner is Donald J. Trump. Federal law exempts from the payment and reimbursement requirements for travel aboard aircraft that are "owned or leased" by a candidate or a candidate's immediate family member (hereinafter "candidate owned"), including an aircraft owned or leased by any entity in which the candidate or a member of the candidate's immediate family "has an ownership interest," provided that (1) the entity is not a "public corporation" and (2) the use of the aircraft is not "more than the candidate's or immediate family member's proportionate share of ownership allowed." 2 U.S.C. 439a(c)(3)(A). Here, there was no federal candidate or campaign travel. Period.

Accordingly, even if Mr. Trump had become a federal candidate (which he did not), the Act specifically permits the unlimited use of an aircraft personally-owned by a candidate.

Clearly, the allegations in the Complaint are baseless. For the reasons stated above, Respondents move that the complaint be dismissed.

Please contact me at (202) 295-4081 if you have any questions.

Sincerely,

Cleta Mitchell, Esq.
Counsel for Respondents

cc to Respondents:

Donald J. Trump
Michael Cohen
Stewart Rahr
ShouldTrumpRun.com
The Trump Organization LLC

Enclosure

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